

REMARKS

Claim Rejections Under 35 U.S.C. §§ 112, first paragraph

L19 and E1 are both known and available. They can be reproduced since their sequences are known. See, for example, table 2 of *Pini et al.*, Design and Use of a Phage Display Library, The Journal of Biological Chemistry, Vol. 273, No. 34, Issue of August 21, 1998, pp. 21769-21776. A copy of this reference is attached.

The definition of Y is amended such that it is $=C(CH_3)_2$. Support for this amendment can be found, for example, in the compound of example 1 of page 16 of the specification.

Claims 26 and 31 are also amended to render the rejections moot even though applicants disagree with the rejections.

The Specification

The specification is amended to render moot the objections to incorporation by reference.

Additionally, the same definition is given to Y in the specification as in the claims.

Claim Rejections Under 35 U.S.C. § 103

The claims are rejected as allegedly obvious over Neri (Nature Biotechnology), in view of Viti, applicants' alleged admission in the specification, and Licha.

The Examiner is alleging that somehow applicants' arguments in the last reply suggested binding through the dye and not through the antibody. Applicants clarify the record that such was not argued or suggested by the arguments. The arguments distinguished the antibody standing on its own from the conjugate of the antibody with the dye of the claimed invention, but made no statements as to how such would bond to a focus of a disease.

The new allegations in the Office Action with respect to this combination of references is that Viti teaches that L19 targets new forming blood vessels and that new blood vessels read on the edge areas, i.e., new formations are alleged to be at an edge and not in the middle of an already formed vessel. However, these allegations miss the point that even if one of ordinary skill in the art knows that L19 targets the newly formed blood vessels, one would still not know and would not have basis to reasonably expect that a conjugate of L19 and the specific dye of the present invention would behave in the same manner, i.e., target the newly formed vessels or maintain the same affinity to the edge areas, and/or that the

conjugate would accumulate in the edge areas of cell tissue of a focus of disease in a manner that permits their optical detection. There are too many unknowns without guidance in the references. There are both lack of motivation for the alleged combination for the reasons already discussed in the last reply, which reasons/arguments are incorporated herein, as well as lack of reasonable expectation of success.


Reconsideration is respectfully requested.

The claims are rejected as allegedly obvious over Neri (WO 99/58570), in view of applicants' alleged admission in the specification, and Licha.

Applicants attach a verified translation of the priority document.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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